

REMARKS

Claims 10 to 13, 17 to 19, and 21 to 27 remain pending. Claims 1 to 9, 14 to 16, 20, and 28 to 33 have been cancelled. Claims 11 to 13 and 24 to 27 have been withdrawn from consideration. Claims 34 to 38 have been added.

Claim 1 has been objected to for the use of the term "have" therein.

The objection to claim 1 is moot since it has been cancelled.

Claim 15 has been rejected under 35 U.S.C. 112, second paragraph, for failing to particularly point and distinctly claim the subject matter regarded as the invention. The terms "poor" and "thin" were objected to.

The rejection of claim 15 under 35 U.S.C. 112, second paragraph, is moot since it has been cancelled.

Claims 1 to 10, 14 to 16, 19, 20, 22, 23, 28 to 30, 32, and 33 have been rejected under 35 U.S.C. 102(b) as being anticipated by FR 2,754,447 (FR '447). The Action states that FR '447 discloses an emulsion composition having 20% mangostin and that same is applied to the skin for a predetermined time of 15 minutes. The Action further states that properties or benefits provided by the claimed invention are inherent and not patentable over the prior art.

FR '447 discloses topical application of a sunscreen composition having mangostin to protect the skin from harmful effects of prolonged and repeated exposure to the sun, e.g., premature aging, actinic erythema, and keratoses.

The rejection of claims 10, 17, and 18 under 35 U.S.C. 102(b) over FR '447 is overcome. Independent claim 10 requires that treating a skin condition selected from rosacea and/or telangiectasia via application to an affected area of the skin. Claim 10 distinguishes FR '447 because it does not disclose rosacea and/or telangiectasia and also does not disclose application to an affected area of the skin. Claim 10 further distinguishes FR '447 because it does not disclose application to an affected area. Sunscreen compositions are applied for protection of general surface areas of the skin rather than application to particular affected areas exhibiting a skin condition.

The rejection of claims 19 and 21 to 23 under 35 U.S.C. 102(b) over FR '447 is overcome. Independent claim 19 requires treating the skin for dermatological signs of aging via topical application to an affected area daily for about 1 week or more. Claims 19 and 21 to 23 distinguish FR '447 because it does not disclose treating of the skin. FR '447 discloses a sunscreen composition for protecting the skin (from sun exposure) rather than treating it. Claims 19 and 21 to 23 further distinguish FR '447 because it does not disclose topical application to an affected area daily for about 1 week or more. Claims 19 and 21 to 23 further distinguish FR '447 because it does not disclose application to an affected area. The composition of FR '447 is

applied as a sunscreen composition to protect the skin from sun exposure. Sunscreen compositions are applied for protection of general surface areas of the skin rather than application to particular affected areas exhibiting a skin condition.

New claims 34 to 38 distinguish the composition of FR '447. Independent claim 34 requires treatment of a selected skin condition via application to an affected area. New claims 34 to 38 distinguish FR '447 because it does not disclose treating the skin. FR '447 discloses a sunscreen composition for protecting the skin (from sun exposure) rather than treating the skin. New claims 34 to 38 further distinguish FR '447 because it does not disclose application to an affected area. Sunscreen compositions are applied for protection of general surface areas of the skin rather than application to particular affected areas exhibiting a skin condition. New claims 34 to 38 further distinguish FR '447 because it does not disclose application to treat the appearance and/or depth of lines and/or wrinkles, fine lines, and poor skin texture. FR '447 discloses application of a sunscreen composition to protect the skin from premature aging, but application to the skin to treat one of the selected conditions is not disclosed.

Cancelled claim 15 was rejected under 35 U.S.C. 112, second paragraph, in view of the presence of the claim term "poor." New claim 34 also contains such a term with respect to skin texture. The term "poor" is not indefinite in view of a common, ordinary meaning of the term and the context of its reference to skin texture. For instance, Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc. (1984), defines the term "poor"

at entry 4 as "inferior in quality or value." The claim language "poor skin texture" could be unambiguously characterized as including inferior quality skin texture.

The rejection of claims 1 to 9, 14 to 16, 20, 28 to 30, 32, and 33 under 35 U.S.C. 102(b) is moot since they have been cancelled.

Claims 17, 18, 21, and 31 have been rejected under 35 U.S.C. 103(a) as being obvious over FR '447 as applied to claims 1 to 10, 14 to 16, 19, 20, 22, 23, 28 to 30, 32, and 33 above, and, further, in view of U.S. Published Patent Application 2003/0092675 to Duggan et al. (the Duggan Application). The Action admits that FR '447 does not disclose daily application for one to two weeks. The Action states that the Duggan Application discloses methods of improving the appearance of skin via application of the sunscreen composition. The Action further states that the sunscreen compositions are applied once or twice daily for up to two or four weeks. The Action further states that it was obvious to apply the composition of FR '447 daily for up to two weeks as taught by the Duggan Application because the Duggan Application discloses daily application for one to two weeks as is conventional in the art.

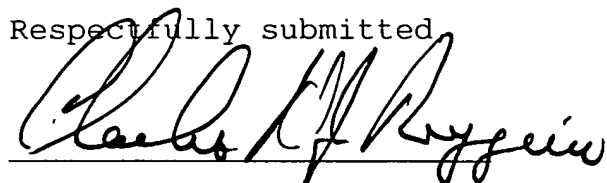
The rejection of claims 17, 18, and 21 under 35 U.S.C. 103(a) as being obvious over FR '447 and further in view of the Duggan Application is overcome. Claims 17 and 18 are dependent on independent claim 10. As discussed in the response to the 102(b) rejection of claim 10 above, FR '447 does not disclose treatment of rosacea and/or telangiectasia or application to an affected

area of the skin. FR '447 likewise cannot be construed as suggesting application to an affected area of the skin because it would be incongruent with sunscreen application, which is normally directed to a general skin area for the purpose of protection. Claim 21 is dependent on independent claim 19. As discussed in the response to the 102(b) rejection of claim 19 above, FR '447 does not disclose treating of the skin, application to an affected area, or topical application to an affected area daily for about 1 week or more. FR '447 likewise cannot be construed as suggesting treating of the skin or application to an affected area because it would be incongruent with the teachings of FR '447 to a sunscreen composition. Sunscreen compositions are normally applied over a general skin area for the purpose of protection rather than to particular areas of the skin exhibiting a condition.

The rejection of claim 31 under 35 U.S.C. 103(a) as being obvious over FR '447, and, further, in view of the Duggan Application is moot since it has been cancelled.

Reconsideration of claims 10 to 13, 17 to 19, and 21 to 27
is deemed warranted in view of the foregoing, and allowance of
said claims and new claims 34 to 38 is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charles N. J. Ruggiero", written over a horizontal line.

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